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| <p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>ROBERT J. & SHIRLEY J. MILES,</p> <p>v.</p> <p>Respondent:</p> <p>BOULDER COUNTY BOARD OF EQUALIZATION.</p> | <p>Docket No.: 53526</p> |
| <p>ORDER</p> | |

THIS MATTER was heard by the Board of Assessment Appeals on July 21, 2010, Sondra W. Mercier and Karen E. Hart presiding. Robert J. Miles appeared pro se on behalf of Petitioners. Respondent was represented by Michael A. Koertje, Esq. Petitioners are protesting the 2009 actual value of the subject property.

PROPERTY DESCRIPTION:

Subject property is described as follows:

**7142 Gold Nugget Drive, Niwot, Colorado
(Boulder County Schedule No. R0056827)**

The subject property consists of a 3,334 square foot residence built in 1992 on a 19,586 square foot site. There is a 1,722 square foot unfinished basement and a 3-car attached garage.

Petitioners are requesting a value of \$680,000.00. Respondent assigned a value of \$742,500.00 but is recommending a reduction in value to \$720,000.00.

Petitioner, Mr. Robert J. Miles, used four different calculations to determine the value of the subject property. His first calculation involved a value based on time adjusted sale price increases. Mr. Miles calculated an increase in value of \$38.32 per day for the time period of June 30, 2004 to June 30, 2006. Mr. Miles applied this calculation to the Assessor's valuation of \$642,000.00 as of June 30, 2004 to arrive at a value of \$670,000.00 as of June 30, 2006. Mr. Miles next calculated an

increase in value of \$39.36 per day for the time period ending June 30, 2008 and applied this daily rate to the 2006 value previously calculated to arrive at a value of \$698,000.00 for the subject property for tax year 2009.

Mr. Miles' second calculation involved looking at all Boulder County sales data, paring down to sold properties +/- 20% of the subject square footage and having unfinished basements. Mr. Miles narrowed his analysis to four properties, calculating average values per square foot for above ground square footage, unfinished and finished basement area square footage, and garage square footage. Mr. Miles concluded a value estimate of \$686,000.00 rounded for the subject property, based on this methodology.

Mr. Miles' third calculation was based on upgrades and other features he believed to be required to bring the subject property in line with other homes that have sold for \$700,000.00 or more in his subdivision. Mr. Miles concluded that \$40,000.00 to \$50,000.00 was needed to upgrade the subject property from its current condition. Mr. Miles concluded that the subject property would be valued at \$630,000.00 using this methodology.

Finally, Mr. Miles calculated a statistical analysis of all homes sold in the last two years, using Boulder County Assessor data and indicating a time trended average sales price of \$897,251.00, with a trended sales range of \$227,173.00 to \$4,983,300.00. Mr. Miles testified that the purpose of this analysis was to demonstrate the wide value range due to the diversity of house construction designs, square footage, land size, and individual physical characteristics within the neighborhood. Mr. Miles believes this analysis demonstrates the importance of choosing the proper sales based on comparability to the subject property.

Mr. Miles believes that Respondent's sales are not comparable to his property as they are larger in square footage with finished basements, upgrades, higher construction quality, and larger lot sizes than the subject property.

Mr. Miles testified that the market was in a downward trend starting in the fall of 2007 and the assessor did not properly reflect a negative adjustment for the declining market at the end of the base period ending June 30, 2008.

Respondent presented a value of \$720,000.00 for the subject property based on the market approach.

Respondent presented three comparable sales ranging in sales price from \$710,000.00 to \$749,000.00 and in size from 2,980 to 3,756 square feet. After adjustments were made, the sales ranged from \$715,000.00 to \$728,000.00. All of the sales are located on the same street in very close proximity to the subject property.

Respondent's witness, Stewart A. Leach, a Colorado Certified General appraiser and senior appraiser for the Boulder County Assessor's office, testified that the subject property is of very good quality construction and in good condition, with no remodeling or upgrades. Mr. Leach used qualified sales from the extended data collection period of July 1, 2003 through June 30, 2008. Mr.

Leach gave most weight to Sales 1 and 2 as they were the most recent sales. Mr. Leach concluded to a value of \$720,000.00.

Mr. Leach testified that the condition of the comparable sales was determined using staff appraiser inspections at the time of construction or at appeal, utilizing multi-listing service data, and gathering information from parties involved with the sale. The time adjustment was developed using multiple regression analysis of the Niwot market area subset of data. There was no updating on Sale 3. Mr. Leach was not aware that the third garage space in Sale 3 was remodeled into an office but it would not change his value conclusion as he gave that sale less consideration in his value conclusion. Mr. Leach did not believe that any of Petitioners' sales were located in the subject's neighborhood.

Sufficient probative evidence and testimony was presented to prove that the subject property was incorrectly valued for tax year 2009.

Petitioners presented no appraisal or market analysis based on acceptable appraisal practices. Only the sales comparison approach, also known as the market approach, may be used to value residential property. The subject property value may not be established by trending prior assessed values. The Board gives little weight to average sales prices per square foot of properties not adjusted for physical differences or location. There was insufficient information regarding the four sales presented by Petitioners on Page 4 of Exhibit 1. The sales data lacked year of construction, quality of construction, condition of the property at the time of sale, location, and sale conditions. Without such data, the sale properties cannot be adjusted to the subject property to determine a value.

In contrast, Respondent presented an appraisal report using comparable sales that were located in very close proximity to the subject property and adjusted for time and differences in physical characteristics, as required by the market approach to value methodology.

The Board agrees with Respondent's recommended value and concludes that the 2009 actual value of the subject property should be reduced to \$720,000.00.

ORDER:

Respondent is ordered to reduce the 2009 actual value of the subject property to \$720,000.00

The Boulder County Assessor is directed to change his/her records accordingly.

APPEAL:

If the decision of the Board is against Petitioner, Petitioner may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-five days after the date of the service of the final order entered).

If the decision of the Board is against Respondent, Respondent, upon the recommendation of the Board that it either is a matter of statewide concern or has resulted in a significant decrease in the total valuation of the respondent county, may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-five days after the date of the service of the final order entered).

In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

If the Board does not recommend its decision to be a matter of statewide concern or to have resulted in a significant decrease in the total valuation of the respondent county, Respondent may petition the Court of Appeals for judicial review of such questions within thirty days of such decision.

Section 39-8-108(2), C.R.S.

DATED and MAILED this 29th day of July 2010.

BOARD OF ASSESSMENT APPEALS




Sondra W. Mercier



Karen E. Hart

I hereby certify that this is a true and correct copy of the decision of the Board of Assessment Appeals.



Heather Flannery

